

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

DONNA OSBOURNE TORRES,

07-CV-202-BR

Plaintiff,

OPINION AND ORDER

v.

RELIANCE STANDARD LIFE
INSURANCE COMPANY; MATRIX
ABSENCE MANAGEMENT, INC.; and
the TEKTRONIX, INC., LONG
TERM DISABILITY PLAN,

Defendants.

SAMUEL T. STANKE
1400 S.W. Montgomery Street
Portland, OR 97201
(503) 224-1127

Attorney for Plaintiff

SAMUEL K. ANDERSON
Davis Rothwell Earle & Xochihua, PC
1900 Wells Fargo Center
1300 S.W. Fifth Avenue
Portland, OR 97201-5604
(503) 222-4422

JOSHUA BACHRACH

Rawle & Henderson, LLP
The Widener Building
One South Penn Square
16th Floor
Philadelphia, PA 19107
(215) 575-4200

Attorneys for Defendants

BROWN, Judge.

This matter comes before the Court on Plaintiff's Motion for Notice of Appeal Fee (#61). For the reasons that follow, the Court **GRANTS** Plaintiff's Motion and awards costs to Plaintiff in the amount of **\$455.00**.

BACKGROUND

On February 12, 2007, Plaintiff Donna Osbourne Torres filed a Complaint in this Court in which she alleged Defendants violated the Employee Retirement Income Security Act (ERISA), 29 U.S.C. § 1132(a)(1)(B), and defamed Plaintiff.

On May 22, 2007, Plaintiff filed a First Amended Complaint in which she alleged Defendants violated ERISA when they denied her claim for Long Term Disability (LTD) benefits.

On September 26, 2007, Defendants moved for summary judgment on the ground that Defendants did not abuse their discretion when they denied Plaintiff's claim for benefits under the Plan. On October 22, 2007, Plaintiff filed a Cross-Motion for Summary

Judgment.

On March 14, 2008, the Court issued an Opinion and Order in which it granted Defendants' Motion for Summary Judgment and denied Plaintiff's Cross-Motion for Summary Judgment. On that same date, the Court entered a Judgment dismissing this matter with prejudice. On April 7, 2008, Plaintiff filed an appeal.

On April 9, 2009, the Ninth Circuit reversed and remanded the matter to this Court for further proceedings.

On March 22, 2009, Plaintiff filed a Motion for Notice of Appeal Fee.

DISCUSSION

Plaintiff seeks costs of \$455.00 incurred for filing her Notice of Appeal. Defendants do not oppose Plaintiff's request.

Federal Rule of Appellate Procedure 39(a)(3) and (e)(4) provides in pertinent part:

[I]f a judgment is reversed, costs are taxed against the appellee.

* * *

The following costs on appeal are taxable in the district court for the benefit of the party entitled to costs under this rule:

(4) the fee for filing the notice of appeal.

The Court finds Plaintiff's costs are allowed under Federal Rule of Appellate Procedure 39 and are both reasonable and supported by the evidence in this matter. Accordingly, the

Court awards Plaintiff \$455.00 in costs.

CONCLUSION

For these reasons, the Court **GRANTS** Plaintiff's Motion for Notice of Appeal Fee (#61) and **AWARDS** costs to Plaintiff in the amount of **\$455.00**.

IT IS SO ORDERED.

DATED this 1st day of July, 2009.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge